

TIGARD CITY COUNCIL  
MEETING

JUNE 21, 2005 6:30 p.m.

TIGARD CITY HALL  
13125 SW HALL BLVD  
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

**A G E N D A**  
**TIGARD CITY COUNCIL MEETING**  
**JUNE 21, 2005**

6:30 PM

1. **WORKSHOP MEETING**
  - 1.1 Call to Order - City Council & Local Contract Review Board
  - 1.2 Roll Call
  - 1.3 Pledge of Allegiance
  - 1.4 Council Communications & Liaison Reports
  - 1.5 Call to Council and Staff for Non-Agenda Items
  
2. **HERITAGE TREE PROGRAM PRESENTATION**
  - a. Staff Report: Public Works Staff and Tree Board Representatives
  - b. Council Discussion
  
3. **DISCUSS PENALTIES AS PROVIDED IN TREE PROTECTION SECTION OF THE DEVELOPMENT CODE**
  - a. Staff Report: Community Development Staff
  - b. Council Discussion
  
4. **PROGRESS REPORT ON HALL BOULEVARD/HIGHWAY 99W INTERSECTION IMPROVEMENT PROJECT**
  - a. Staff Report: Engineering Staff
  - b. Council Discussion
  
5. **DISCUSS SOLID WASTE RATES AND PROGRAM CHANGES**
  - a. Staff Report: Public Works Staff
  - b. Council Discussion
  
6. **DISCUSS AMENDING THE TIGARD MUNICIPAL CODE SECTION 7.40.180 REGARDING HOURS OF WORK FOR CONSTRUCTION NOISE**
  - a. Staff Report: Community Development Staff
  - b. Council Discussion

7. COUNCIL LIAISON REPORTS

8. NON AGENDA ITEMS

9. EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss the employment of a public officer, employee, staff member or individual agent under ORS 192.660(2)(a). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

10. ADJOURNMENT

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AGENDA ITEM # 2  
FOR AGENDA OF June 21, 2005

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Heritage Tree Program

PREPARED BY: Matt Stine DEPT HEAD OK  CITY MGR OK 

ISSUE BEFORE THE COUNCIL

The Tree Board will present a proposed Heritage Tree program to City Council

STAFF RECOMMENDATION

Review the proposed Heritage Tree Program and provide direction to staff regarding next steps. Suggested next steps are referring the proposed program to staff for legal and financial analysis.

INFORMATION SUMMARY

The proposed Heritage Tree Program was created by the Tigard Tree Board as a method to identify and bring public awareness to very large and old trees growing within the City's limits. This program will offer incentives to private landowners who have a heritage tree growing on their property.

OTHER ALTERNATIVES CONSIDERED

Do not review the Heritage Tree Program.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Goal: The City will maximize the effectiveness of the volunteer spirit to accomplish the greatest good for our community.

ATTACHMENT LIST

Heritage Tree Program guidelines and rules.

FISCAL NOTES

Not known at this time.

## **Heritage Trees**

### **Sections:**

- Purpose; Definition
- Nomination
- Review Process
- Protection of Heritage Trees
- Recognition of Heritage Trees
- Removal of Heritage Tree Designation

### **Purpose and Definition:**

1. The purpose is to foster appreciation and provide for voluntary protection of Heritage Trees within the Tigard City limits.
2. A "Heritage Tree" is a tree or stand of trees that is of landmark importance due to age, size, species, horticultural quality or historical importance.
3. "City Property" shall mean City property or public right-of-way under City jurisdiction.

### **Nomination:**

1. Any person may nominate a particular tree or group of trees for "Heritage" status. If the proposed Heritage Tree is located on property other than City property, the nomination shall be submitted by the property owner or accompanied by the property owner's written consent. If the proposed Heritage Tree is located on City property, the nomination shall be submitted to the City Forester for evaluation. The City Forester and other City designees shall append his/her recommendation to the nomination.
2. All nominations shall include a photograph of the tree(s) and a narrative explaining why the tree qualifies for Heritage status.

### **Review Process:**

1. The Tigard Tree Board shall review all Heritage Tree nominations at a public meeting. Notice of the meeting shall be provided to the nominating applicant, the property owner (if different than the applicant), the City Forester and the Chair of any recognized neighborhood association in which the tree is located.
2. The City Forester shall prepare a report for the Tree Board analyzing whether the tree complies with the requirements for designation.
3. After considering the City Forester's report and any testimony by interested persons, the Tigard Tree Board shall vote on the nomination. The Board may designate the tree as a Heritage Tree if the Board determines that the following criteria are met:
  - a. The tree or stand of trees is of landmark importance due to age, size, species, horticultural quality or historic importance, and
  - b. The tree is not irreparably damaged, diseased, hazardous or unsafe, or the applicant is willing to have the tree treated by an arborist and the treatment will alleviate the damage, disease or hazard.
4. If the nomination is approved by the Tree Board, it shall be forwarded, with all elements of the Board's evaluation attached, to the City Council for final evaluation and approval.
5. Following approval of the nomination by the City Council:
  - a. If the tree is located on private property, the designation shall be complete upon the

#### FOURTH DRAFT FOR COMMITTEE CONSIDERATION (7/12/04)

property owner's execution of a covenant running with the land and duly recorded by the City. The covenant shall describe the subject property, generally describe the location of the heritage tree, and covenant that the tree is protected as a Heritage Tree by the City of Tigard and is therefore subject to special protection. The Heritage Tree shall be listed on the City Heritage Tree Registry.

- b. If the tree is located on City Property, the designation shall be complete upon the staff's listing of the tree on the City Heritage Tree Registry.

#### **Protection of Heritage Trees:**

1. Unless the tree qualifies for removal as dead or as a hazard tree, a permit shall be required to remove a designated Heritage Tree.
2. If an application to remove a Heritage Tree is sought, the applicant shall demonstrate that the burden imposed on the owner outweighs the public benefit provided by the tree. Additionally, if the tree is located within the public right-of-way under City jurisdiction, then the City shall demonstrate that the burden imposed on the City by the continued presence of the tree outweighs the public benefit provided by the tree. For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner or City:
  - a. View obstruction,
  - b. Routine pruning, leaf raking and other maintenance activities, and
  - c. Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.
3. Unless there is a permit to remove a dead or hazardous heritage tree the applicant shall be required to follow the mitigation procedures for the loss of the tree as outlined in the Tigard Municipal Code, Chapter 18.790.
4. Any person who removes a Heritage Tree without first obtaining a permit to do so shall be subject to a fine equal to twice the value of the tree as determined by the City Forester with reference to the current edition of *Guide to Plant Appraisal* and shall be required to mitigate for the loss of the tree.

#### **Recognition of Heritage Trees:**

1. A Heritage Tree plaque shall be designed and may be furnished by the City to the property owner of a designated Heritage Tree, or if the tree is on City property, to the City Forester. The plaque shall be posted at or near the tree and, if feasible, visible from a public right-of-way.
2. The City shall maintain a list and map of designated Heritage Trees.

#### **Removal of Heritage Trees Designation:**

1. A Heritage Tree shall be removed from designation if it dies.
2. To request permission to remove a tree from Heritage designation, the interested party(ies) shall submit to the City Forester a narrative clearly stating justification for removal. The City Forester shall review the request, append his/her recommendations to the request and submit the request and recommendation to the City Council for a final decision.
3. If the Heritage Tree is on private property, and removal from Heritage designation is approved, the City shall record a document extinguishing the covenant running with the property.

FOURTH DRAFT FOR COMMITTEE CONSIDERATION (7/12/04)

4. Once Heritage Tree status is removed, the City shall remove the tree from their list and map, the tree shall be removed from the Heritage Tree Registry and any plaque associated with the tree shall be returned to the City Forester.
5. Once Heritage designation is removed, the tree shall be treated as any other tree within the City limits for purposes of planning, development, removal or care.

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Discuss Penalties as Provided in Tree Protection Section of the Development Code

PREPARED BY: Jim Hendryx DEPT HEAD OK [Signature] CITY MGR OK cl

ISSUE BEFORE THE COUNCIL

This is a discussion item on penalties for illegal tree removal.

STAFF RECOMMENDATION

Provide direction to staff on possible Code or procedural changes for illegal tree removal.

INFORMATION SUMMARY

Trees are an important asset for the community. The City, working with a group of citizens, developed procedures and standards to encourage tree preservation. The standards recognize that there is a balance between preservation and development. The Community Development Code establishes the standards for tree removal, as well as penalties for illegal tree removal.

A question has been raised regarding the City of Tigard's penalties for illegal tree removal. As the City has developed better information on the impacts of illegal tree removal with the use of the City Arborist, the normal approach is to seek a compliance agreement for illegally removed trees. An agreement can include fines and mitigations for illegal tree removal. If issues cannot be resolved by a compliance agreement, the violator is cited into Municipal Court. At that point, fines are levied and consequences are determined by the judicial system (see Attachment #1).

Council has requested a review of existing procedures used for tree removal violations and their effectiveness in limiting illegal removal. Direction may result in Code or procedural changes.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Community Character and Quality of Life; Community Aesthetics Goals #1 – Develop strategies to balance needs of new and infill development with the need to provide preservation and protection of open space, natural areas, and other defined aesthetic qualities valued by those who live and work in Tigard.

ATTACHMENT LIST

Attachment 1: May 26, 2005 memo to Council – Tree Violation Fines

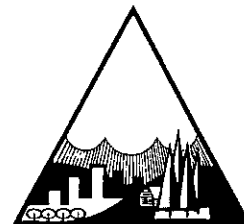


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## FISCAL NOTES

Potential costs and revenues are unknown at this time. The fiscal impact will depend on the nature and type of any changes the Council may wish to explore.

# MEMORANDUM



TO: City Council

FROM: Jim Hendryx 

RE: Tree Violation Fines

DATE: May 26, 2005

A question was raised regarding how the City of Tigard tracks tree violations in terms of fines. As the City has developed better information on the impacts of tree violations with the use of the City Arborist, the normal approach is to seek a compliance agreement that includes the following as listed in the tree provision of the Development Code:

- If construction is going on, a stop work order is issued until the compliance agreement is completed (there are two such cases now under stop work orders).
- Based on the circumstances, a civil penalty of up to \$500 is levied.
- Require replacement of trees equal to the diameter at breast height (dbh) of the removal, based on a plan approved by the City Arborist.
- Finally, we assess additional penalties representing the estimated value of any unlawfully removed or damaged trees based on the City Arborist using the International Society of Arboriculture, *Guide for Plant Appraisal*.

Should issues not be resolved by a compliance agreement covering the above, we cite individuals into Municipal Court. At that point, fines are levied and consequences are determined by the judicial system.

You might note that with almost all cases in code enforcement whether it is signs, trees, etc., there is usually a reluctance of the offender to face the penalties and resolution requires multitudes of staff hours over extended periods of time. You might also note that the Tree Board is recommending that staff time involved be added to the penalty. That may resolve some costs, but also could lead to more court cases. Within the limits of what is reasonable, the question arises as to how punitive should the City be for violations of illegal tree removal. Council direction is requested. Direction may result in Code or procedural changes.

AGENDA ITEM # 4  
FOR AGENDA OF June 21, 2005

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Progress Report – Hall Boulevard/Highway 99W Intersection Improvement Project

PREPARED BY: A. P. Duenas *APD* DEPT HEAD OK *APD* CITY MGR OK *cl*

ISSUE BEFORE THE COUNCIL

Progress report by Washington County staff and project consultant on the MSTIP 3 Hall Boulevard/Highway 99W Intersection Improvement project.

STAFF RECOMMENDATION

Staff recommends that Council provide input into the process of identifying the components of a project that would provide both provide significant improvements to the traffic movement through the intersection and conform to the overall budget established for the project.

INFORMATION SUMMARY

Washington County, through its consultant W&H Pacific, has been performing an alternatives analysis during the past eight months to determine feasible improvements that can be constructed to enhance traffic movement through the Hall Boulevard/Highway 99W intersection. This project is funded through the County's MSTIP 3 (Major Streets Transportation Improvement Program). A traffic analysis has been completed and the County and consultant have conceptually diagrammed alternatives that range from minimal improvements sufficient for the next two years to improvements that provide capacity for the next 15 to 20 years. The improvements that provide the most capacity greatly exceed the project budget with rights-of-way acquisition a major part of the expense.

County staff will brief Council on the alternatives that are under consideration and request input from Council on those project elements that should be included in the project while remaining cognizant of the project budget. The work that has been done so far is conceptual in nature and has been diagrammed in sufficient detail to provide a basis for cost comparison of alternatives. Once the project elements are identified and agreed upon, more detailed work will follow leading to design and construction of the project. The project design is tentatively scheduled to begin in late summer. Once the rights-of-way needed for the project have been fully identified, described and appraised, land acquisition will begin. Assuming no major delays occur during this process, construction is projected to begin in late 2006 at the earliest.

OTHER ALTERNATIVES CONSIDERED

None

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## VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

The improvements proposed for the Hall Blvd/Highway 99W intersection support the Tigard Beyond Tomorrow goals of *Improve Traffic Flow* and *Improve Traffic Safety*.

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## ATTACHMENT LIST

None

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## FISCAL NOTES

The County MSTIP 3 budget for this project is approximately \$4.9 million. The County is examining project elements that when implemented would provide significant improvements to the intersection while remaining at or near the budgeted amount.

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Solid Waste Rates and Program Changes Discussion

PREPARED BY: Dennis Koellermeier DEPT HEAD OK  CITY MGR OK 

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ISSUE BEFORE THE COUNCIL

Staff and our consultant have concluded the annual review of our franchised Solid Waste Hauler. Based on this analysis, staff has concluded that City Council should consider solid waste rate adjustments. In addition, several new programs are being considered. City Staff and our consultant will present information and answer questions relating to this topic.

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STAFF RECOMMENDATION

Accept the presentation and direct staff to prepare a revised solid waste rate resolution and conduct a public hearing.

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INFORMATION SUMMARY

Solid waste collection is accomplished in Tigard via a franchise system. Tigard has two franchisees, Pride Disposal and Waste Management. City codes have been enacted that explain the franchise process, the duty of the franchisees and the responsibilities of the City. City Council has the responsibility to set solid waste collection rates. Tigard is also governed in this area by Metro, which has regional solid waste management responsibilities granted it by the state legislature.

Financial statements of the haulers are reviewed annually and the annual rate of return is calculated. Annual rate of return is targeted to remain between 8% and 12% and any annual review that falls outside that range automatically triggers a rate adjustment. This year the aggregate rate of return was 7.9%.

The Council is also being presented with recommended changes to the recycling collection program and a proposal to adjust franchise fees to pay for anticipated recycling mandates and fund programs such as neighborhood cleanups, right-of-way cleanup and enhancement, etc.

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OTHER ALTERNATIVES CONSIDERED

Rate adjustments that affect aggregate profits below 8% are required by City Council Resolution 01-54A. Consideration of new program costs are at the discretion of the City Council.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

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ATTACHMENT LIST

Solid Waste Rate Workbook  
2005 Solid Waste Rate Report Summary

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FISCAL NOTES

One aspect of the proposed rate package could increase annual city franchise revenues by approximately \$101,000 to be used for anticipated expanded recycling programs to be mandated by Metro, neighborhood and right-of-way cleanups, right-of-way enhancements, etc.

# SOLID WASTE RATE WORKBOOK

## Reported Return on Revenues

	Residential Service			Commercial Service			Drop Box	Grand Totals
	Solid Waste	Recycling	Yard Debris	Solid Waste	Recycling			
Collection & Service Revenues	2,846,466	69,026	6,786	3,027,848	83,085		2,133,275	8,166,486
Direct Costs of Operations	1,289,599 % of revenue	514,775 % of revenue	282,889 % of revenue	1,791,815 % of revenue	379,105 % of revenue		2,134,347 % of revenue	6,392,530
Disposal Expense	563,972 19%	0 0%	31,078 1%	1,053,311 34%	0 0%		1,196,118 56%	2,844,479
Labor Expense	301,070 10%	278,756 10%	126,152 4%	363,329 12%	194,700 6%		467,925 22%	1,731,932
Truck Expense	195,668 7%	116,306 4%	47,031 2%	141,955 5%	78,099 3%		258,798 12%	837,857
Equipment Expense	100,971 3%	48,877 2%	62,988 2%	107,306 3%	56,057 2%		94,599 4%	470,798
Franchise Fees	90,091 3%	1,389 0%	0 0%	88,847 3%	1,728 0%		55,428 3%	237,483
Other Direct Expense	37,827 1%	69,447 2%	15,640 1%	37,067 1%	48,521 2%		61,479 3%	269,981
Indirect Costs of Operations	278,639	201,140	88,528	284,689	116,374		157,862	1,127,232
Management Expense	62,402 2%	45,110 2%	18,982 1%	63,503 2%	25,923 1%		33,611 2%	249,531
Administrative Expense	92,417 3%	66,797 2%	28,268 1%	94,097 3%	38,418 1%		50,096 2%	370,093
Other Overhead Expenses	123,820 4%	89,233 3%	41,278 1%	127,089 4%	52,033 2%		74,155 3%	507,608
Total Cost	1,568,238	715,915	371,417	2,076,504	495,479		2,292,209	7,519,762
Less Unallowable Costs	0	0	0	0	0		0	0
Allowable Costs	1,568,238	715,915	371,417	2,076,504	495,479		2,292,209	7,519,762
Franchise Income	1,278,228	-646,889	-364,631	951,344	-412,394		-158,934	646,724
Return on revenues	44.91%	-937.17%	-5373.28%	31.42%	-496.35%		-7.45%	7.92%
Revenues	2,922,278			3,110,933			2,133,275	8,166,486
	% of revenue			% of revenue				
Direct Costs of Operations	2,087,263 71%			2,170,920 70%			2,134,347	6,392,530
Indirect Costs of Operations	568,307 19%			401,063 13%			157,862	1,127,232
Total Cost	2,655,570			2,571,983			2,292,209	7,519,762
Less Unallowable Costs	0 0%			0 0%			0	0
Allowable Costs	2,655,570			2,571,983			2,292,209	7,519,762
Franchise Income	266,708			538,950			-158,934	646,724
Return on revenues 2003	9.13%			17.32%			-7.45%	7.92%

**Adjusted  
Return on Revenues**

	Automated Cart Service						Container Service				Drop Box	Grand Totals
	Solid Waste		Recycling		Yard Debris		Solid Waste		Recycling			
Collection & Service Revenues	2,846,466		69,026		6,786		3,027,848		83,085		2,145,575	8,178,786
Direct Costs of Operations	1,293,968		502,258		274,303		1,781,327		370,824		2,115,038	6,337,718
Disposal Expense	593,052	20%	0	0%	36,028	1%	1,053,311	34%	0	0%	1,196,118	2,878,509
Labor Expense	301,070	10%	278,756	10%	126,152	4%	363,329	12%	194,700	6%	467,925	1,731,932
Truck Expense	186,431	6%	114,451	4%	42,173	1%	138,731	4%	76,808	2%	253,539	812,133
Equipment Expense	92,977	3%	48,877	2%	57,864	2%	107,306	3%	56,057	2%	94,599	457,680
Franchise Fees	91,480	3%	0	0%	0	0%	90,575	3%	0	0%	55,428	237,483
Other Direct Expense	28,958	1%	60,174	2%	12,086	0%	28,075	1%	43,259	1%	47,429	219,981
Indirect Costs of Operations	293,993		212,270		92,794		300,193		122,686		165,296	1,187,232
Management Expense	62,402	2%	45,110	2%	18,982	1%	63,503	2%	25,923	1%	33,611	249,531
Administrative Expense	92,417	3%	66,797	2%	28,268	1%	94,097	3%	38,418	1%	50,096	370,093
Other Overhead Expenses	139,174	5%	100,363	3%	45,544	2%	142,593	5%	58,345	2%	81,589	567,608
Total Cost	1,587,961		714,528		367,097		2,081,520		493,510		2,280,334	7,524,950
Less Unallowable Costs	0		0		0		0		0		0	0
Allowable Costs	1,587,961		714,528		367,097		2,081,520		493,510		2,280,334	7,524,950
Franchise Income	1,258,505		-645,502		-360,311		946,328		-410,425		-134,759	653,836
Return on revenues	44.21%		-935.16%		-5309.62%		31.25%		-493.98%		-6.28%	7.99%
Customer Count / Drop Box Pulls	11,052		11,052		11,134		815		815		6,523	
Revenues	2,922,278						3,110,933				2,145,575	8,178,786
Direct Costs of Operations	2,070,529		71%				2,152,151		69%		2,115,038	6,337,718
Indirect Costs of Operations	599,057		20%				422,879		14%		165,296	1,187,232
Total Cost	2,669,586						2,575,030				2,280,334	7,524,950
Less Unallowable Costs	0		0%				0		0%		0	0
Allowable Costs	2,669,586						2,575,030				2,280,334	7,524,950
Franchise Income	252,692						535,903				-134,759	653,836
Return on revenues 2004	8.65%						17.23%				-6.28%	7.99%
Return on revenues 2003	8.62%						20.74%				-4.52%	10.29%



**City of Tigard**  
**Projected Composite Line Item Expenses**

2004 Solid Waste Rate Review  
January 1 to December 31, 2004

DCR Line#	Line item Description	Adjusted Totals	Inflation Factor	Inflation Amount	Rate Setting Totals
<b>SUMMARY- DIRECT COSTS OF OPERATIONS</b>					
22	Wages - Route Drivers	870,417	3.00%	26,113	896,530
23	Wages - Utility (Helpers and Other Direct)	59,923	3.00%	1,798	61,721
24	Wages - Mechanic	180,115	3.00%	5,403	185,518
25	Payroll Tax Expense	220,473	3.00%	6,614	227,087
26	Medical Insurance	234,997	10.12%	23,782	258,779
27	Pension Plan Expense	131,468	3.00%	3,944	135,412
28	Other Benefits	6,238	3.00%	187	6,425
29	Training and Worker Safety	28,301	2.94%	832	29,133
30	Fuel	195,176	24.40%	47,623	242,799
31	Repairs & Maintenance - Vehicles	243,978	2.94%	7,173	251,151
32	Repairs & Maint. - Containers & Carts	62,125	2.94%	1,826	63,951
33	Repairs & Maintenance - Other Equipment	16,113	2.94%	474	16,587
34	Repairs & Maintenance - Yard/Buildings	10,869	2.94%	320	11,189
35	Depreciation - Vehicles	228,910		0	228,910
36	Depreciation - Containers & Carts	188,779		0	188,779
37	Depreciation - Other Equipment	32,908		0	32,908
38	Depreciation - Yard/Buildings	25,890		0	25,890
39	Disposal Fees	2,878,509	5.93%	170,648	3,049,157
40	Processing Charges	0		0	0
41	Recycling Bins	10,633		0	10,633
42	Supplies	58,733	2.94%	1,727	60,460
43	Yard Rent	118,435		0	118,435
44	Vehicle Rent	0		0	0
45	Other Equipment Rent	22,102	2.94%	650	22,752
46	Insurance	43,337	2.94%	1,274	44,611
47	Property Taxes	12,944	2.94%	381	13,325
48	PUC/Licenses/Fees	31,767		0	31,767
49	Franchise Fees	237,483	4.78%	11,343	248,826
50	Surcharges	0		0	0
51	Interest - Vehicles	56,021		0	56,021
52	Interest - Containers & Carts	37,417		0	37,417
53	Interest - Other Equipment	28,872		0	28,872
54	Interest - Yard/Buildings	0		0	0
55	Other Operational Expenses	64,787	2.94%	1,905	66,692
56	<b>TOTAL - SUMMARY DIRECT COS</b>	<b>6,337,718</b>	<b>4.95%</b>	<b>314,015</b>	<b>6,651,735</b>

DCR Line#	Line item Description	Adjusted Totals	Inflation Factor	Inflation Amount	Rate Setting Totals
<b>SUMMARY INDIRECT COSTS</b>					
57	Management Salaries	197,442	2.94%	5,805	203,247
58	Management Payroll Tax Expense	17,596	2.94%	517	18,113
59	Management Medical Insurance	24,768	10.12%	2,507	27,275
60	Management Pension Plan Expense	9,725	2.94%	286	10,011
61	Management Other Benefits	0		0	0
62	Administrative Salaries	266,217	2.94%	7,827	274,044
63	Administrative Payroll Tax Expense	28,309	2.94%	832	29,141
64	Administrative Medical Insurance	68,600	10.12%	6,942	75,542
65	Administrative Pension Plan Expense	8,341	2.94%	245	8,586
66	Administrative Other Benefits	(1,374)	2.94%	(40)	(1,414)
67	Corporate Overhead Costs	74,890		0	74,890
68	Office Rent	54,566	2.94%	1,604	56,170
69	Advertising and Public Education	3,650		0	3,650
70	Contributions	0		0	0
71	Professional Fees	78,201	2.94%	2,299	80,500
72	Training & Worker Safety	1,107	2.94%	33	1,140
73	Insurance	19,356	2.94%	569	19,925
74	Telephone	10,225	2.94%	301	10,526
75	Utilities	49,002	2.94%	1,441	50,443
76	Property Taxes/Licenses/Fees	52,925	2.94%	1,556	54,481
77	Dues & Subscriptions	9,718	2.94%	286	10,004
78	Depreciation - Office Building	4,613		0	4,613
79	Depreciation - Office Equipment	78,517		0	78,517
80	Repairs & Maintenance - Office	8,825	2.94%	259	9,080
81	Cleaning and Maintenance	9,281	2.94%	273	9,554
82	Equipment Rental	2,462		0	2,462
83	Office Supplies	24,717	2.94%	727	25,444
84	Postage & Freight	23,833	2.94%	701	24,534
85	Miscellaneous Expense	19,355	2.94%	569	19,924
86	Travel/Meals/Lodging	8,070		0	8,070
87	Professional Meetings and Seminars	7,573		0	7,573
88	Bad Debts	26,722		0	26,722
89	Amortization - Route & Intangibles	0		0	0
90	Amortization - Other	0		0	0
91	Interest - Route	0		0	0
92	Interest - Other	0		0	0
93	<b>TOTAL - SUMMARY INDIRECT</b>	<b>1,187,232</b>		<b>35,537</b>	<b>1,222,765</b>

Solid Waste		Recycling & Yard Debris	
Driver Wage	3.00%	Driver Wage	3.00%
Health Ins	10.12%	Health Ins	10.12%
Fuel	24.40%	Fuel	24.40%
Solid Waste Tip Fee	5.75%	Yard Debris	20.00%
Liab-Prop Ins	2.94%	Liab-Prop Ins	2.94%
Inflation	2.94%	Inflation	2.94%

	Automated Cart Service			Container Service			Drop Box	Grand Totals
	Solid Waste	Recycling	Yard Debris	Solid Waste	Recycling			
	Increase % from '04	Increase % from '04	Increase % from '04	Increase % from '04	Increase % from '04	Increase % from '04		
Collection & Service Revenues	2,902,361	62,376	6,786	3,027,848	83,085	2,225,695	3.7%	8,308,151
Direct Costs of Operations	1,350,356	521,490	289,614	1,869,087	386,146	2,235,042		6,651,735
Disposal Expense	627,152	0	43,234	1,113,876	0	1,264,895	5.8%	3,049,157
Labor Expense	312,999	290,213	131,186	377,666	202,251	486,291	3.9%	1,800,606
Truck Expense	196,027	120,663	44,948	150,022	82,956	273,968	8.1%	868,584
Equipment Expense	93,646	49,433	58,121	108,793	56,853	95,511	1.0%	462,357
Franchise Fees	91,480	0	0	90,575	0	66,771	20.5%	248,826
Other Direct Expense	29,052	61,181	12,125	28,155	44,086	47,606	0.4%	222,205
Indirect Costs of Operations	302,897	218,704	95,484	309,246	126,382	170,052		1,222,765
Management Expense	64,681	46,757	19,674	65,823	26,870	34,838	3.7%	258,643
Administrative Expense	96,373	69,656	29,468	98,121	40,059	52,219	4.2%	385,896
Other Overhead Expenses	141,843	102,291	46,342	145,302	59,453	82,995	1.7%	578,226
Total Cost	1,653,253	740,194	385,098	2,178,333	512,528	2,405,094		7,874,500
Less Unallowable Costs	0	0	0	0	0	0		0
Allowable Costs	1,653,253	740,194	385,098	2,178,333	512,528	2,405,094		7,874,500
Franchise Income	1,249,108	-677,818	-378,312	849,515	-429,443	-179,399		433,651
Return on revenues	43.04%	-1086.66%	-5574.89%	28.06%	-516.87%	-8.06%		5.22%
Revenues	2,971,523			3,110,933		2,225,695		8,308,151
Direct Costs of Operations	2,161,460			2,255,233		2,235,042		6,651,735
Indirect Costs of Operations	617,085			435,628		170,052		1,222,765
Total Cost	2,778,545			2,690,861		2,405,094		7,874,500
Less Unallowable Costs	0			0		0		0
Allowable Costs	2,778,545			2,690,861		2,405,094		7,874,500
Franchise Income	192,978			420,072		-179,399		433,651
2005 Projected Return on Revenues	6.49%			13.50%		-8.06%		5.22%
2004 Adjusted Return on Revenues	8.65%			17.23%		-6.28%		7.99%

Inflation Assumptions for Line Item Expenses					
Solid Waste		Resi Recycling & Yard Debris			
Driver Wage	3.00%	Driver Wage	3.00%	PUC	0.00%
Health Ins	10.12%	Health Ins	10.12%	Drop Box Tip Fee	0.62%
Fuel	24.40%	Fuel	24.40%		
Tip Fee	5.75%	Yard Debris Disposal	20.00%		
Liab-Prop Ins	2.94%	Liab-Prop Ins	2.94%		
Inflation	2.94%	Inflation	2.94%		

Changes in Revenue	
<b>Residential Revenue</b>	
Reported customers as of Dec 31, 2004 are multiplied by the reported service to arrive at the projected revenue	
<b>Residential Material Sales Revenue</b>	
Four year average	
<b>Drop Box Revenue</b>	
Increase is the pass through of the tip fee increase	



## Projected 2005 Results

## Return on Revenues with Rate Adjustments for Cart, Container, and Drop Box Services

	Automated Cart Service			Container Service			Drop Box	Grand Totals	Grand Totals With Increase
	Solid Waste	Recycling	Yard Debris	Solid Waste	Recycling				
	Increase % from '04	Increase % from '04	Increase % from '04	Increase % from '04	Increase % from '04	Increase % from '04	Increase % from '04		
Collection & Service Revenues	2,902,361	2.0%	62,376	-9.6%	6,786	0.0%	2,225,695	3.7%	8,308,150
Direct Costs of Operations	1,350,355		521,491		289,610		2,235,042		6,651,733
Disposal Expense	627,152	5.8%	0		43,234	20.0%	1,264,895	5.7%	3,049,157
Labor Expense	312,999	4.0%	290,213	4.1%	131,185	4.0%	486,291	3.9%	1,800,605
Truck Expense	196,027	5.1%	120,663	5.4%	44,948	6.6%	273,968	8.1%	868,584
Equipment Expense	93,646	0.7%	49,433	1.1%	58,120	0.4%	95,511	1.0%	462,357
Other Direct Expense	120,532	316.2%	61,182	1.7%	12,125	0.3%	114,377	141.2%	471,031
Indirect Costs of Operations	302,896		218,708		95,484		170,053		1,222,769
Management Expense	64,682	3.7%	46,758	3.7%	19,675	3.7%	34,838	3.7%	258,646
Administrative Expense	96,373	4.3%	69,657	2.4%	29,468	4.2%	52,219	4.2%	385,899
Other Overhead Expenses	141,842	1.9%	102,293	3.5%	46,341	1.7%	82,995	1.7%	578,225
Total Cost	1,653,252		740,198		385,094		2,405,095		7,874,503
Less Unallowable Costs	0		0		0		0		0
Allowable Costs	1,653,252		740,198		385,094		2,405,095		7,874,503
Franchise Income	1,249,109		-677,822		-378,308		-179,400		433,648
Return on revenues	43.04%		-1086.67%		-5574.83%		-8.06%		5.22%
Customer Count / Drop Box Pulls	11,052		11,052		11,052		6,523		
Average Cost per Service	\$ 12.47		\$ 5.58		\$ 2.90		44,514		
Total Average Rate	\$ 20.95								
Revenues	2,971,523		117,056	Total needed to get 10%	3,110,933	Composite to 10%	2,225,695		8,308,150
Direct Costs of Operations	2,161,456				2,255,235	139,646	2,235,042		6,651,733
Indirect Costs of Operations	617,087				435,629		170,053		1,222,769
Total Cost	2,778,544				2,690,865		2,405,095		7,874,503
Less Unallowable Costs	0				0		0		0
Allowable Costs	2,778,544				2,690,865		2,405,095		7,874,503
Franchise Income	192,979				420,068		-179,400		433,648
2005 Projected Return on Revenues	6.49%				13.50%		-8.06%		5.22%
2004 Return on Revenues	8.65%				17.23%		-6.28%		7.99%

## Inflation Assumptions for Line Item Expenses

Solid Waste, Resi Recycling & Yard Debris		Yard Debris Disposal	
Driver Wage	3.00%		20.00%
Health Ins	10.12%		
Fuel	24.40%		
Tip Fee	5.75%		
Liab-Prop Ins	2.94%		
Inflation	2.94%		

## Revenue Adjustments

456,996	Amount needed to get to Composite to 10%
117,056	Amount needed to get to residential to 10%
200,294	Revenue increase allotted for Drop Box
139,646	Amount needed by container to get to 10% composite

**City of Tigard**  
**Rate Matrix**

	Scenario 1 Current Level of Service	Scenario 2 Weekly Yard Debris	Scenario 3 Weekly Cart Recycling	Scenario 4 Every Other Week Cart Recycling
<b>Current Rate</b>	\$ 18.75			
<b>Add: Inflation Increase</b>	\$ 0.88	\$ 0.88	\$ 0.88	\$ 0.88
<b>New Program Cost</b>		\$ 1.41	\$ 0.73	\$ (0.05)
<b>New Rate: 35 gal svc @ 3% FF</b>	\$ 19.63	\$ 21.04	\$ 20.37	\$ 19.58
Franchise Fee at 4% Add to the New Rate	\$ 0.27	\$ 0.29	\$ 0.28	\$ 0.27
<b>New Rate: 35 gal svc @ 4% FF</b>	\$ 19.90	\$ 21.33	\$ 20.65	\$ 19.85
Franchise Fee at 5% Add to the New Rate	\$ 0.55	\$ 0.58	\$ 0.57	\$ 0.55
<b>New Rate: 35 gal svc @ 5% FF</b>	\$ 20.18	\$ 21.62	\$ 20.94	\$ 20.13

**Rate Increase and Franchise Fee Impact of Commercial Container Rates**

	\$ Impact	% Impact	
1.5 yd collected weekly Current Rate	\$ 114.67		
Rate Increase @ \$0.58 per yard	3.77		
New Rate: 1.5yd weekly service	118.44	3.29%	
<b>New Rate: 1.5yd wkly svc @ 4% FF</b>	\$ 119.62	4.32%	
<b>New Rate: 1.5yd wkly svc @ 5% FF</b>	\$ 120.81	5.35%	

Complete container rate  
schedule and franchise fee  
increases on next sheet.

**Drop Box Rate Increases**

Exchange @ 1 hour	\$ 109	
Compactor @ 1 hour and 15 min	\$ 136	
Delivery @ 40 minutes	\$ 63	
Demurrage		
20 CuYds Box after 48 hours	\$ 5	
30 CuYds Box after 48 hours	\$ 7	
40 CuYds Box after 48 hours	\$ 7	
Disposal Mark Up	13% or 14%	(Mark up is dependant on the franchise fee rate)

**Projected Increase in Franchise Fees  
Collected by the City of Tigard**

	No Change	Weekly Yard Debris	Weekly Rec Carts	EOW Rec Cart
<b>Cart Collection Rates</b>				
Fees at 3%	\$ 3,512	\$ 5,613	\$ 3,062	\$ (194)
Fees at 4%	\$ 29,715	\$ 37,199	\$ 33,797	\$ 29,457
Fees at 5%	\$ 59,430	\$ 68,785	\$ 64,533	\$ 59,107

<b>Container Collection Rates</b>	With Rate Increase
Fees at 3%	\$ 4,189
Fees at 4%	\$ 36,695
Fees at 5%	\$ 69,201

<b>Drop Box Rates</b>	Based on Prior Year's Activities
Fees at 3%	\$ 6,009
Fees at 4%	\$ 30,269
Fees at 5%	\$ 54,529

Prepared by Bell and Associates

6/7/2005

# City of Tigard

## Proposed Cart Solid Waste Collection Rates

	Current Rate	Proposed Rate	\$ Increase	% Increase
<b>Residential Cart Rates</b>				
20 gallon	16.10	16.90	0.80	5.0%
without yard debris	13.85	14.55	0.70	5.1%
35 gallon	18.75	19.65	0.90	4.8%
without yard debris	16.45	17.25	0.80	4.9%
60 gallon	29.25	30.70	1.45	5.0%
90 gallon	35.50	37.25	1.75	4.9%
On Call Service	9.50	9.95	0.45	4.7%
<b>Recycling Only</b>				
Bins and Yard Debris	9.96	10.45	0.49	4.9%
Bins only	4.98	5.25	0.27	5.4%
Yard Debris	4.98	5.25	0.27	5.4%

### Commercial Cart Rates

35 gallon	18.75	19.65
60 gallon	29.25	30.70
90 gallon	35.50	37.25

### Comparison of Area SW Rates

	Tigard	Lake Oswego	West Linn	Tualatin	Beaverton	Washington County	Sherwood	West Hills Portland
<b>Container Size</b>								
20 gallon	16.10	15.12	N/A	15.50	15.50	18.06	20.15 *	19.10
32/35 gallon	18.75	18.98	20.34	18.00	18.00	19.65	22.15 *	22.95
60 gallon	29.25	31.14	32.55	29.50	29.50	28.51	29.45 *	27.65
90 gallon	35.50	32.84	35.80	Not available	37.00	33.72	36.81 *	31.55
Cart/Can Svc	Cart	Cart	Cart	Cart	Cart	Can/Cart	Cart	Cart
Yard Debris	Every other week 60 gal cart	Weekly 60 gal cart	Weekly 60 gal cart	Weekly 60 gal cart	Weekly 60 gal cart	Every other week 60 gal cart	Every other week 60 gal cart	Every other week 32 gal can
Recycling	Weekly 14 gal curby	Weekly 60 gallon cart	Weekly 60 gallon cart	Weekly 14 gal curby	Weekly 14 gal curby	Weekly 14 gal curby	Weekly 14 gal curby	Weekly 14 gal curby
Effective Date	1/1/2002	8/1/2004	7/1/2004	7/1/2003	7/1/2003	7/1/2004	8/1/2004	8/1/2004

#### Notes:

\* Rate is shown with the \$4.00 credit for the monthly recycling participation.

Lake Oswego and West Linn both have residential collection of recyclable materials in carts; West Linn utilizes 95 gallon carts and Lake Oswego uses 60 gallon carts.



City of Tigard  
Container Rate Matrix

Current Rates		Current Container Rates				
Container Size	Frequency of Pick Ups per Week					
	One	Two	Three	Four	Five	
1 yard	\$ 89.71	\$ 167.41	\$ 241.99	\$ 316.59	\$ 391.37	
each additional	57.97	111.65	165.20	218.76	272.44	
1.5 yard	114.67	211.04	307.34	403.64	500.03	
each additional	80.00	155.29	230.55	305.80	381.10	
2 yard	136.73	254.73	372.72	490.71	608.70	
each additional	102.08	198.97	295.93	392.88	489.77	
3 yard	180.71	342.10	503.39	664.70	826.09	
each additional	146.05	286.34	426.60	566.87	707.16	
4 yard	224.71	429.50	634.11	838.71	1,043.50	
each additional	190.55	373.74	557.31	740.89	924.57	
5 yard	268.75	516.75	764.76	1,012.77	1,260.78	
each additional	234.09	461.01	687.96	914.93	1,141.85	
6 yard	312.51	603.92	895.23	1,186.54	1,477.95	
each additional	277.85	548.16	818.42	1,088.71	1,359.02	
8 yard	401.34	779.36	1,157.39	1,535.40	1,913.42	
each additional	366.69	723.61	1,080.59	1,437.57	1,794.49	

Rate Increase @ \$0.58 per yard

	One	Two	Three	Four	Five
1 yard	\$ 92.22	\$ 172.43	\$ 249.52	\$ 326.64	\$ 403.93
each additional	60.48	116.67	172.73	228.81	285.00
1.5 yard	118.44	218.57	318.64	418.71	518.87
each additional	83.77	162.82	241.85	320.87	399.94
2 yard	141.75	264.78	387.79	510.80	633.81
each additional	107.10	209.02	311.00	412.97	514.88
3 yard	188.24	357.17	525.99	694.84	863.76
each additional	153.58	301.41	449.20	597.01	744.83
4 yard	234.76	449.59	664.25	878.89	1,093.73
each additional	200.60	393.83	587.45	781.07	974.80
5 yard	281.31	541.86	802.43	1,063.00	1,323.57
each additional	246.65	486.12	725.63	965.16	1,204.64
6 yard	327.58	634.06	940.44	1,246.81	1,553.29
each additional	292.92	578.30	863.63	1,148.98	1,434.36
8 yard	421.43	819.54	1,217.66	1,615.76	2,013.88
each additional	386.78	763.79	1,140.86	1,517.93	1,894.95

% Increase per container

	One	Two	Three	Four	Five
1 yard	2.8%	3.0%	3.1%	3.2%	3.2%
each additional	4.3%	4.5%	4.6%	4.6%	4.6%
1.5 yard	3.3%	3.6%	3.7%	3.7%	3.8%
each additional	4.7%	4.9%	4.9%	4.9%	4.9%
2 yard	3.7%	3.9%	4.0%	4.1%	4.1%
each additional	4.9%	5.0%	5.1%	5.1%	5.1%
3 yard	4.2%	4.4%	4.5%	4.5%	4.6%
each additional	5.2%	5.3%	5.3%	5.3%	5.3%
4 yard	4.5%	4.7%	4.8%	4.8%	4.8%
each additional	5.3%	5.4%	5.4%	5.4%	5.4%
5 yard	4.7%	4.9%	4.9%	5.0%	5.0%
each additional	5.4%	5.4%	5.5%	5.5%	5.5%
6 yard	4.8%	5.0%	5.0%	5.1%	5.1%
each additional	5.4%	5.5%	5.5%	5.5%	5.5%
8 yard	5.0%	5.2%	5.2%	5.2%	5.3%
each additional	5.5%	5.6%	5.6%	5.6%	5.6%

Rate Increase @ \$0.58 per yard and Franchise Fee @ 4%

	One	Two	Three	Four	Five
1 yard	\$ 93.14	\$ 174.16	\$ 252.02	\$ 329.90	\$ 407.97
each additional	61.09	117.84	174.46	231.09	287.85
1.5 yard	119.62	220.76	321.83	422.90	524.05
each additional	84.60	164.45	244.27	324.08	403.93
2 yard	143.17	267.42	391.67	515.91	640.15
each additional	108.17	211.11	314.11	417.10	520.03
3 yard	190.13	360.74	531.25	701.79	872.40
each additional	155.12	304.42	453.69	602.98	752.28
4 yard	237.10	454.09	670.89	887.68	1,104.67
each additional	202.60	397.77	593.32	788.88	984.55
5 yard	284.12	547.28	810.46	1,073.63	1,336.80
each additional	249.11	490.99	732.89	974.81	1,216.68
6 yard	330.85	640.40	949.84	1,259.28	1,568.82
each additional	295.85	584.08	872.26	1,160.47	1,448.71
8 yard	425.65	827.74	1,229.84	1,631.92	2,034.01
each additional	390.65	771.43	1,152.27	1,533.11	1,913.90

\$ Increase per container

	One	Two	Three	Four	Five
1 yard	\$ 0.92	\$ 1.72	\$ 2.50	\$ 3.27	\$ 4.04
each additional	\$ 0.60	1.17	1.73	2.29	2.85
1.5 yard	\$ 1.18	2.19	3.19	4.19	5.19
each additional	\$ 0.84	1.63	2.42	3.21	4.00
2 yard	\$ 1.42	2.65	3.88	5.11	6.34
each additional	\$ 1.07	2.09	3.11	4.13	5.15
3 yard	\$ 1.88	3.57	5.26	6.95	8.64
each additional	\$ 1.54	3.01	4.49	5.97	7.45
4 yard	\$ 2.35	4.50	6.64	8.79	10.94
each additional	\$ 2.01	3.94	5.87	7.81	9.75
5 yard	\$ 2.81	5.42	8.02	10.63	13.24
each additional	\$ 2.47	4.86	7.26	9.65	12.05
6 yard	\$ 3.28	6.34	9.40	12.47	15.53
each additional	\$ 2.93	5.78	8.64	11.49	14.34
8 yard	\$ 4.21	8.20	12.18	16.16	20.14
each additional	\$ 3.87	7.64	11.41	15.18	18.95

% Increase per container

	One	Two	Three	Four	Five
1 yard	3.8%	4.0%	4.1%	4.2%	4.2%
each additional	5.4%	5.5%	5.6%	5.6%	5.7%
1.5 yard	4.3%	4.6%	4.7%	4.8%	4.8%
each additional	5.8%	5.9%	6.0%	6.0%	6.0%
2 yard	4.7%	5.0%	5.1%	5.1%	5.2%
each additional	6.0%	6.1%	6.1%	6.2%	6.2%
3 yard	5.2%	5.4%	5.5%	5.6%	5.6%
each additional	6.2%	6.3%	6.4%	6.4%	6.4%
4 yard	5.5%	5.7%	5.8%	5.8%	5.9%
each additional	6.3%	6.4%	6.5%	6.5%	6.5%
5 yard	5.7%	5.9%	6.0%	6.0%	6.0%
each additional	6.4%	6.5%	6.5%	6.5%	6.6%
6 yard	5.9%	6.0%	6.1%	6.1%	6.1%
each additional	6.5%	6.6%	6.6%	6.6%	6.6%
8 yard	6.1%	6.2%	6.3%	6.3%	6.3%
each additional	6.5%	6.6%	6.6%	6.6%	6.7%

**City of Tigard**  
**Drop Box Rates**

**Proposed Rates**

Service	Rate
Exchange @ 1 hour	\$ 109
Compactor @ 1 hour and 15 min	\$ 136
Delivery @ 40 minutes	\$ 63
Demurrage remains the same	

**Current Rates**

**Single Service**

10 CuYds	\$ 116.05	+Actual disposal cost and franchise fee
20 CuYds	\$ 116.05	+Actual disposal cost and franchise fee
30 CuYds	\$ 139.87	+Actual disposal cost and franchise fee
40 CuYds	\$ 168.57	+Actual disposal cost and franchise fee

**Exchange Service**

10 CuYds	\$ 103.68	+Disposal Fee
20 CuYds	\$ 103.68	per CuYd +Disposal Fee
30 CuYds	\$ 126.89	per CuYd+Disposal Fee
40 CuYds	\$ 155.29	per CuYd+Disposal Fee

**Compactors**

10 CuYds	\$ 119.02	+Actual disposal cost and franchise fee
20 CuYds	\$ 124.63	+Actual disposal cost and franchise fee
30 CuYds	\$ 164.18	+Actual disposal cost and franchise fee
40 CuYds	\$ 188.43	+Actual disposal cost and franchise fee

**Demurrage**

\$ 5.00	20 CuYds Box after 48 hours
\$ 6.60	30 CuYds Box after 48 hours
\$ 6.60	40 CuYds Box after 48 hours

Setting the drop box rate based on three components is the best way to arrive at a cost of service. The first step is to determine the cost per hour of drop box service. Once the cost is calculated, then the average time is used to calculate the service component of the rate. Drop Box service has a composite cost of service of \$109 per hour. The \$109 includes the margin and applicable franchise and local fees on the haul component. The second component is the demurrage, if applicable for the service. The demurrage rate is based on the size of the container. I recommend using the existing rates for demurrage. The third component is the disposal fee. The disposal fee is viewed by many as a pass through fee, so most jurisdictions do not allow the franchised companies to charge applicable franchise fees or margin on the disposal costs. What has been done in the past is to predict drop box pulls into the future and set rates based on past activities. Because of the unpredictable nature of the drop box business, this methodology of rate setting has not proven to be reliable.

Reviewing the analysis to the left shows if the haulers collected the margin on disposal, then the reported ROR would have been approximately 2.4%. If they are running very efficient and pulling boxes within the time parameters, then 10% could be achieved.

The cost of service rate is made up of three components: 1) haul fee, 2) demurrage (if applicable), 3) disposal with margin and fees. This is why when a drop box service is rendered in the open markets, the disposal fees are a little higher than the posted gate rate at the disposal facilities.

The current Tigard (Pride Recycling) rate to be accessed to drop box customers would be \$85.26 per ton on wet waste. The tip fee is \$74.50, the margin is \$8.28, and the franchise fee is \$2.48.

The proposed rate a 20 yard one time box dropped for seven days with 4 tons of wet garbage would be \$63 for the delivery, \$25 for demurrage, \$119 for the haul fee to be disposed (exchange rate), and a disposal fee of \$341. Total cost for the service and disposal is \$548. The current rate is \$439.

The difference is the delivery fee and the margin on disposal. See the examples to the right for a

**Comparison of the Current Rates to the Proposed Rates**

	Current Rate	Proposed Rate	Increase and %
<b>20 yard occasional with 3.5 tons of MSW</b>	<b>\$ 386.80</b>	<b>\$ 396.38</b>	<b>\$ 9.58</b>
Delivery Fee	-	\$ 63.25	2.5%
Haul Fee	116.05	109.05	
Box Rent	10.00	10.00	
Disposal	260.75	214.08	
<b>30 yard occasional with 2.5 tons of Dry Waste</b>	<b>\$ 322.95</b>	<b>\$ 380.75</b>	<b>\$ 57.81</b>
Delivery Fee	-	\$ 63.25	17.9%
Haul Fee	139.87	109.05	
Box Rent	13.20	13.20	
Disposal	169.88	195.26	
<b>40 yard occasional with 1.5 tons of Dry Waste</b>	<b>\$ 283.70</b>	<b>\$ 302.65</b>	<b>\$ 18.96</b>
Delivery Fee	-	\$ 63.25	6.7%
Haul Fee	168.57	109.05	
Box Rent	13.20	13.20	
Disposal	101.93	117.16	
<b>20 yard compactor with 5 tons of MSW</b>	<b>\$ 497.13</b>	<b>\$ 564.47</b>	
Haul Fee	124.63	136.31	\$ 67.34
Disposal	372.50	428.16	13.5%
<b>30 yard compactor with 7 tons of MSW</b>	<b>\$ 685.68</b>	<b>\$ 735.74</b>	
Haul Fee	164.18	136.31	\$ 50.06
Disposal	521.50	599.43	7.3%
<b>40 yard compactor with 8 tons of MSW</b>	<b>\$ 784.43</b>	<b>\$ 821.37</b>	
Haul Fee	188.43	136.31	\$ 36.94
Disposal	596.00	685.06	4.7%
<b>20 yard exchange with 2 tons of MSW</b>	<b>\$ 262.68</b>	<b>\$ 290.31</b>	
Haul Fee	103.68	109.05	\$ 27.63
Box Rent	10.00	10.00	10.5%
Disposal	149.00	171.26	
<b>30 yard exchange with 3 tons of Dry Waste</b>	<b>\$ 343.94</b>	<b>\$ 356.56</b>	
Haul Fee	126.89	109.05	\$ 12.62
Box Rent	13.20	13.20	3.7%
Disposal	203.85	234.31	
<b>40 yard exchange with 6 tons of MSW</b>	<b>\$ 615.49</b>	<b>\$ 636.04</b>	
Haul Fee	155.29	109.05	\$ 20.55
Box Rent	13.20	13.20	3.3%
Disposal	447.00	513.79	



City of Tigard

Weekly Cart Collection

2004 Solid Waste Rate Review

Expenses from January 1 to December 31, 2004 and inflated over 18 months

DCR Line#	Line Item Description	Franchised Totals	Adjustments Debit	Adjustments Credit	Final Totals
<b>RESIDENTIAL RECYCLING</b>					
22	Wages - Route Drivers	144,383	4.40%	6,353	150,736
23	Wages - Utility (Helpers and Other Direct)	0	4.40%	0	0
24	Wages - Mechanic	27,543	4.40%	1,212	28,755
25	Payroll Tax Expense	36,059	4.40%	1,587	37,646
26	Medical Insurance	43,505	10.12%	4,403	47,908
27	Pension Plan Expense	20,833	4.40%	917	21,750
28	Other Benefits	884	4.40%	39	923
29	Training and Worker Safety	5,549	4.40%	244	5,793
30	Fuel	18,869	24.40%	4,604	23,473
31	Repairs & Maintenance - Vehicles	45,444	4.40%	2,000	47,444
32	Repairs & Maint. - Containers & Carts	3,194	4.40%	141	3,335
33	Repairs & Maintenance - Other Equipment	2,240	4.40%	99	2,339
34	Repairs & Maintenance - Yard/Buildings	1,812	4.40%	80	1,892
35	Depreciation - Vehicles	27,632		0	27,632
36	Depreciation - Containers & Carts	1,156		0	1,156
37	Depreciation - Other Equipment	5,937		0	5,937
38	Depreciation - Yard/Buildings	4,802		0	4,802
39	Disposal Expense	0		0	0
40	Processing Charges	0		0	0
41	Recycling Bins	10,633		0	10,633
42	Supplies	10,446	4.40%	460	10,906
43	Yard Rent	21,102		0	21,102
44	Vehicle Rent	0		0	0
45	Other Equipment Rent	3,040	4.40%	134	3,174
46	Insurance	8,037	4.40%	354	8,391
47	Property Taxes	1,209	4.40%	53	1,262
48	PUC/Licenses/Fees	2,467	0.00%	0	2,467
49	Franchise Fees	0		0	0
50	Surcharges	0		0	0
51	Interest - Vehicles	10,793		0	10,793
52	Interest - Containers & Carts	6,876		0	6,876
53	Interest - Other Equipment	5,355		0	5,355
54	Interest - Yard/Buildings	0		0	0
55	Other Operational Expenses	32,458	4.40%	1,428	33,886
56	TOTAL - SUMMARY DIRECT COSTS	502,258		24,105	526,363

Collection Cost per hour	Cost Savings	Add'l Costs	Totals
17.82	5,828		144,908
-	-		0
3.40	1,112		27,643
4.45	1,456		36,190
5.66	1,852		46,055
2.57	841		20,909
0.11	36		887
0.68	(290)		6,083
3.45	(1,460)		24,833
6.97	23,722		23,722
0.49	1,667		1,667
0.34	(145)		2,484
			1,892
		49,511	77,143
		70,439	71,595
		7,000	12,937
			4,802
	43,145		(43,145)
	11,582		(11,582)
	8,506		2,127
1.60	(678)		11,584
			21,102
			0
0.47	(197)		3,371
1.23	(522)		8,912
0.19	(78)		1,341
0.35	(153)		2,620
			0
			0
1.59	(671)	20,101	31,565
1.01		11,770	18,646
0.79	(333)		5,688
-			0
4.98	(2,107)	16,706	52,699
58.17	93,112	175,526	

Increase (Decrease) in Cost 82,415

Margin 9,157

Franchise Fee 2,832

Total Increase for Cart Program 94,404

Approximate Monthly Cost per Customer \$ 0.71

Key Assumptions

Truck Costs

Pride: 2 Trucks at \$200K depreciated over 7 years  
WMO: 1 Truck at \$200K times  
\$ 77,143 cost per year

Cart Costs

11,137 Carts to distribute @ \$45 each  
71,595 cost per year over 7 years

Monthly Cost \$ 3,001 with 7% interest

Annual Cost \$ 36,012

3 Trucks \$ 108,037

Monthly Cart Costs \$0.68 with 7% interest

Monthly Cart Costs \$ 0.54 without interest

Annual Cart Cost \$ 71,595

Total Equipment Cost

Trucks \$ 756,260 485,780.49

Carts 631,685

Glass & Oil Truck (Cost to Retro fit)

\$35,000 Total Costs

\$7,000 5 year life

Increase in Material Collected

2 pounds per customer per week

579 Increase in annual tons collected

\$ 11,582 Recycling Material Sales Rev

\$ 43,145 Disposal Savings

0.41 Cost savings per customer per month

Pride Productivity

4,160 2 FTEs to collect paper and containers

2,080 1 FTE to collect glass and oil

WMO Productivity

1,373 .67 FTEs to collect paper and containers

520 .25 FTE to collect glass and oil

Start Up Costs

Flyers and Outreach Materials @ \$1.50 per customer

\$ 16,706



# City of Tigard 2005 Solid Waste Rate Report Summary

## Rate-Making Methodology

### Reports

Both licensed haulers submit a detailed financial report to the City in March. The report provides line-item costs and revenues associated with providing service in Tigard, and combined line item totals for their non-Tigard operations. The City contracted with a Bell & Associates, a Certified Public Accountant (CPA) with expertise in solid waste collection operations to assist City staff in reviewing the reports and making adjustments as needed to the reported costs and revenues based on predictive tests that tie costs and revenues to customer classes.

### Consolidated Report

Once adjustments to costs and revenues are completed, the financial data from each of the haulers is combined into one report, showing the collection systems total revenues and expenses. From this consolidated report staff and its contracted CPA calculate the system's *return-on-revenue*, which provides a measure of the adequacy of rates. The return-on-revenue is percentage derived from a simple calculation: total revenues minus total expenses, divided by total revenues.

### Return-on-Revenue Targets

Tigard Revised Code (TMC Chapter 11.04) and the City Council's policy establish a return-on-revenue target of "approximately 10%." This is the target for rate-setting based on the consolidated financial report, rather than the target for each individual hauler. Applied in practice over the past decade, this has meant that the City accepts a range in the overall return-on-revenue of between 8% and 12%, and tries to recalibrate the rates when the return-on-revenue falls below or goes above that range. In principle, the City aims to hit the targeted return-on-revenue not only for the overall system, but for the three distinct lines-of-service within it: residential, commercial container, and drop box.

	<i>Overall</i>	<i>Residential</i>	<i>Commercial</i>	<i>Drop Box</i>
<b>Projected 2005 Return-on-Revenue <i>without</i> rate increases</b>	5.2%	6.5%	13.5%	-8%

The proposed rate increases would bring the overall system to 10%. The last time rates were adjusted in Tigard was January 2002. Residential and drop box rates were increased and container rates were decreased. The change lasted 3 years and eight months. Although no one can predict with certainty the time between rate adjustments due to economic factors out of the control of the franchised haulers, we are optimistic that the rates would last at least 18 months given the current programs within the City of Tigard.

## Factors Driving Rate Increases

<b>Cost Changes from 2003 to 2005</b> <i>Last rate increase was January 2002</i>	
Hauler wages	8%
Hauler medical costs	27%
Garbage disposal costs	10%
Yard debris processing facility costs	20%
Fuel	64%
Hauler management and administrative costs	8%

Most of the increases above are self-explanatory, but yard debris warrants an explanation.

### *Yard Debris Processing Facility Costs*

Haulers deliver yard debris to private facilities that compost or chip it for retail or wholesale markets. These facilities charge haulers a per cubic yard fee for the material they receive. This fee has increased dramatically over the last six months as these facilities begin to make, or put money aside for, major capital investments in response to Department of Environmental Quality rules that will take effect in 2009. These rules will require improvements to minimize the facilities' impact on water and air quality.

## Proposed Rate Increases

### Residential Rates

The proposal would increase rates for the weekly services as follows:

20-gallon cart	\$0.80 per month	5.0%
35-gallon cart	\$0.90 per month	4.8%
60-gallon cart	\$1.45 per month	5.0%
90-gallon cart	\$1.75 per month	4.9%

Rates for businesses and small multifamily complexes with cart service would increase approximately 5%.

### Comparison to Other Jurisdictions

<b>RESIDENTIAL</b>	<b>Tigard Proposed</b>	<b>Washington County</b>	<b>Portland Proposed</b>	<b>Beaverton</b>	<b>Lake Oswego</b>	<b>West Linn</b>
20-gallon	\$16.90	\$18.06	\$17.20	\$15.50	\$15.12	N/A
35-gallon	\$19.65	\$19.65	\$21.30	\$18.00	\$18.98	\$20.34
60-gallon	\$30.70	\$28.51	\$26.30	\$29.50	\$31.14	\$32.55
90-gallon	\$37.25	\$33.72	\$29.85	\$37.00	\$32.84	\$35.80

### Considerations in Comparing Rates

- Tigard's proposed cart rates are at full cost-of-service.
- There are numerous other differences in variables affecting cost, including proximity to transfer stations, traffic congestion, customer density, union contract terms etc.

### Commercial Container Rates

There are 84 service options for commercial containers. This proposal would increase rates by 2.8% for the smaller generators of waste and up to 5.6% for the larger generators of waste. The increase would range from \$2.51 per month for the lowest level of service (1 yard container collected weekly: estimated weigh is 585 pounds a month) to \$100.46 for the highest level (8 yard container collected 5 times a week: estimated weight is 23,400 pounds a month).

### Comparison to Other Jurisdictions

<b>COMMERCIAL CONTAINER Select Service Levels</b>	<b>Tigard Proposed</b>	<b>Washington County</b>	<b>Beaverton</b>	<b>Clackamas</b>	<b>Hillsboro</b>
1-yard once/week	\$92.22	\$79.68	\$83.36	\$82.49	\$75.15
2-yard twice/week	\$264.78	\$212.64	\$250.34	\$257.01	\$217.00
3-yard three times/week	\$525.99	\$423.85	\$501.48	\$501.76	\$444.71
6-yard twice/week	\$634.06	\$531.35	\$607.05	\$586.05	\$565.88

Comparing container rates to neighboring jurisdictions in the case of Tigard can be misleading if the only basis is the rate. The average rate of the reported jurisdictions is 10 to 15% lower than the City's proposed rate. The reason for the disparity is the recycling component of the commercial container rates. Oregon Revised Statute 459A established the precedent followed by most of Oregon's municipalities of not separating recycling collection costs from solid waste collection costs in the setting of rates<sup>1</sup>. All Portland metropolitan area jurisdictions "lump" recycling costs into their respective line of business; commercial or residential.

Tigard has an aggressive commercial program that collects more recoverable materials than any other jurisdiction in Washington County. The following table compares key measurements of success against the Cities of Beaverton and Hillsboro.

<b>Commercial Recycling</b>			
<i>Measurement</i>	<b>Tigard</b>	<b>Beaverton</b>	<b>Hillsboro</b>
Reported Container Customers	815	1,108	1,040
Reported Weekly Stops	1,085	1,365	1,402
Collected Materials Tons	9,375	4,945	3,727
Reported Truck Hours	3,979	5,379	6,787
Tons per Truck Hour	2.36	.92	.55
Collected Solid Waste Tons	14,722	21,333	19,862
Ratio of SW to Recycling Tons	1.57	4.31	5.33

Commercial customers expect the haulers in Tigard to provide timely and frequent solid waste and recycling services. For every ton and a half of collected solid waste, Tigard businesses divert one ton of recoverable material from the landfill. Over 50% of all commercial customers have recycling collected more than once a week.

#### *Drop Box Rates*

The new methodology results in rate impacts on customers that vary according to the quantity of debris in their drop boxes. Disposal charges (versus hauling charges) for drop boxes are directly tied to the exact weight of each load. By contrast, disposal charges for residential and commercial container customers are built into the rates as averages, since any one customers garbage is mixed with others in a single truck.

Here are the projected impacts of the proposed rates:

<i>Service Type</i>	<i>Projected Change in Total Rate Paid per Haul</i>
Repeat Service (businesses and multifamily customers that have on-going service)	Range from 4% decrease to 10% increase
Repeat Compactor Service (businesses and large multifamily customers)	Range from 4% decrease to 13% increase
Occasional Service (one-time use of a drop box)	Range from 6% decrease to 25% increase

#### *Comparison to Other jurisdictions*

These are difficult comparisons to make because of all the rate scenarios under the new methodology used by Tigard, but they are representative of common service levels. The rates below include hauling, disposal, rent, delivery, and fees paid to the jurisdiction.

<b>DROP BOXES</b>	<b>Tigard Proposed</b>	<b>Washington County</b>	<b>Beaverton</b>	<b>Clackamas County</b>	<b>Hillsboro</b>
<i>Select Service Levels</i>					
30-yard repeat with 4 tons	\$462	\$412	\$432	\$432	\$412
30-yard compactor with 6 tons	\$650	\$588	\$692	\$585	\$588
20-yard single use with 2.5 tons	\$396	\$276	\$288	\$281	\$276

## OPTIONS FOR REDUCING RATE INCREASES

There are few options for reducing the amount of the proposed rate increases and none that will have a major impact. Under the proposed rates, approximately 87% of system costs are attributable to the actual hauler expenditures associated with providing garbage, recycling and yard debris services: trucks, wages, benefits, disposal fees etc. These costs are all closely examined by City staff for reasonableness. To reduce them the City would need to reduce collection services, and arguably the only truly feasible one would be residential recycling collection. This is illustrated in the chart below.

The other 13% percent of system costs is represented by the haulers' return-on-revenue and City franchise fees. Reduction impacts are also illustrated in the chart below.

	<i>Residential Rates</i>	<i>Container Rates</i>	<i>Drop Box Rates</i>	<i>Impact</i>
Reduce Residential Recycling Service to Every Other Week (using the 14 gallon curbs)ys)	\$0.75 per month			<ul style="list-style-type: none"><li>• Significant customer dissatisfaction</li><li>• Possible increase in recoverable materials thrown away as garbage</li><li>• Directly conflicts with Metro's Regional Solid Waste Management Plan</li><li>• Must obtain a waiver from Oregon DEQ</li></ul>
Reduce Return-on-Revenue to 9%	Increases would drop by 1%	Increases would drop by 1% to 1.5%	Increases would drop by 1%	<ul style="list-style-type: none"><li>• Reduced revenue to hauler</li><li>• Conflict with City policy to calibrate rates at 10% return</li><li>• Residential rates would be decreased by only \$0.10 per month.</li></ul>

<sup>1</sup> **459A.085 City, county authority to issue collection service franchises; opportunity to recycle; rates.** (1) The Legislative Assembly finds that providing for collection service including but not limited to the collection of recyclable material as part of the opportunity to recycle is a matter of statewide concern.

(2) The exercise of the authority granted by this section is subject to ORS 221.735 and 459.085 (3).

(3) It is the intent of the Legislative Assembly that a city or county may displace competition with a system of regulated collection service by issuing franchises which may be exclusive if service areas are allocated. The city or county may recognize an existing collection service. A city or county may award or renew a franchise for collection service with or without bids or requests for proposals.

(4) In carrying out the authority granted by this section, a city or county acts for and on behalf of the State of Oregon to carry out:

(a) The purposes of ORS 459.015;

(b) The requirements of ORS 459.005, 459.015, 459.035, 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665;

(c) Waste reduction programs; and

(d) The state solid waste management plan.

(5) After October 15, 1983, a city or a county may continue, extend or renew an existing franchise or grant a new franchise for collection service. If a city or county, in furtherance of ORS 459.005 to 459.426, 459.705 to 459.790 and 459A.005 to 459A.665, has granted a collection service franchise before October 15, 1983, it may treat the franchise as if adopted under this section.

(6)(a) If a collection service franchise is continued, extended, renewed or granted on or after October 15, 1983, the opportunity to recycle shall be provided to a franchise holder's customers no later than July 1, 1986. This subsection does not apply to that portion of the opportunity to recycle provided at or in connection with a disposal site under ORS 459.250.

(b) The opportunity to recycle may be provided by:

(A) The person holding the franchise;

(B) Another person who provides the opportunity to recycle to the franchise holder's customers; or

(C) A person who is granted a separate franchise from the city or county solely for the purpose of providing the opportunity to recycle.

(c) In determining who shall provide the opportunity to recycle, a city or county shall first give due consideration to any person lawfully providing recycling or collection service on June 1, 1983, if the person continues to provide the service until the date the determination is made and the person has not discontinued the service for a period of 90 days or more between June 1, 1983, and the date the city or county makes the determination.

(7) In granting a collection service franchise, the city or county may:

(a) Prescribe the quality and character of and rates for collection service and the minimum requirements to guarantee maintenance of service, determine level of service, select persons to provide collection service and establish a system to pay for collection service.

(b) Divide the regulated area into service areas, grant franchises to persons for collection service within the service areas and collect fees from persons holding such franchises.

(8) The rates established under this section shall be just and reasonable and adequate to provide necessary collection service. The rates established by the city or county shall allow the person holding the franchise to recover any additional costs of providing the opportunity to recycle at the minimum level required by ORS 459.005, 459.015, 459.035, 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665 or at a higher level of recycling required by or permitted by the city or county. The rates shall also allow the person to recover the costs of education, promotion and notice of the opportunity to recycle provided by a person holding a franchise.

(9) Instead of providing funding for the opportunity to recycle through rates established pursuant to subsection (8) of this section, a city or county may provide an alternative method of funding all or part of the opportunity to recycle.

(10) In establishing service areas, the city or county shall consider:

(a) The policies contained in ORS 459.015;

(b) The requirements of ORS 459.250 and 459A.005 to 459A.665;

(c) Any applicable local or regional solid waste management plan approved by the Department of Environmental Quality;

(d) Any applicable waste reduction plan approved by the department; and

(e) The need to conserve energy, increase efficiency, provide the opportunity to recycle, reduce truck traffic and improve safety.

(11) A city or county may further restrict competition by permitting one or more collection service franchise holders to cooperate to provide the opportunity to recycle if the city or county finds that such cooperation will:

(a) Improve collection service efficiency;

(b) Guarantee an adequate volume of material to improve the feasibility and effectiveness of recycling;

(c) Increase the stability of recycling markets; or

(d) Encourage joint marketing of materials or joint education and promotion efforts.

(12) The provisions of this section are in addition to and not in lieu of any other authority granted to a city or county. A city or county's exercise of authority under this section is not intended to create any presumption regarding an activity of the local government unit not addressed in this section. This section shall not be construed to mean that it is the policy of Oregon that other local government activities may not be exercised in a manner that supplants or limits economic competition. [Formerly 459.200; 1993 c.560 §84]

AGENDA ITEM # 6  
FOR AGENDA OF June 21, 2005

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Discuss Amending TMC 7.40.180 – Amend Hours of Work for Construction Noise

PREPARED BY: Jim Hendryx DEPT HEAD OK [Signature] CITY MGR OK CP

ISSUE BEFORE THE COUNCIL

Should Council amend the Tigard Municipal Code (TMC), Section 7.40.180, to revise the hours allowed for construction noise?

STAFF RECOMMENDATION

Provide staff with direction on whether the permitted hours in Section 7.40.180 should be revised or remain as currently written.

INFORMATION SUMMARY

Council has requested a discussion of Tigard Municipal Code Article 7 regarding Prohibition on Excessive Noise. The exception to noise levels regarding construction and the allowable hours for such noise are found in Chapter 7 of the Tigard Municipal Code, which was last revised in 1990. Construction noise includes those activities associated with development projects, home construction, and home improvement activities, such as deck construction, etc. Due to a citizen complaint about excessive construction noise, staff has gathered allowable noise regulation information from 19 other jurisdictions. The intent is to compare the City of Tigard regulations against the 19 other jurisdictions to determine whether the City's ordinance is consistent with others.

Positive aspects of limiting construction noise could include being more in line with other jurisdictions and being responsive to citizen concerns. A negative aspect of limiting construction noise is it still does not address the fundamental issue that jurisdictions exempt construction activity from noise standards at certain times. During the hours that construction activities are allowed, the noise is exempt from the noise standards. The hours of operation do not address this concern. Another negative aspect could be that time limitations apply to homeowners as well as contractors. A homeowner constructing a deck or fence is subject to the same time limits as contractors.

OTHER ALTERNATIVES CONSIDERED

Keep the existing language found in Chapter 7 of the Tigard Municipal Code.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

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ATTACHMENT LIST

Attachment 1: TMC Chapter 7.40

Attachment 2: Construction Noise Comparison by Jurisdiction

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FISCAL NOTES

There is no budgetary impact.

## TIGARD

## Chapter 7.40 NUISANCES

## ARTICLE I. GENERAL PROVISIONS

- 7.40.010 Short Title.  
 7.40.020 Definitions.  
 7.40.030 Nuisances Designated--Class 1  
 Infraction.

ARTICLE II. PUBLIC HEALTH  
NUISANCES

- 7.40.040 Nuisances Affecting The Public  
 Health.

ARTICLE III. NUISANCES AFFECTING  
PUBLIC SAFETY.

- 7.40.050 Noxious Vegetation.  
 7.40.060 Trees.  
 7.40.070 Streets And Sidewalks.  
 7.40.080 Vehicles Not To Drop Material  
 On Streets.  
 7.40.090 Greenway Maintenance.  
 7.40.100 Open Storage Of Junk.  
 7.40.110 Attractive Nuisances.  
 7.40.120 Scattering Rubbish.

ARTICLE IV. NUISANCES AFFECTING  
THE PUBLIC PEACE

- 7.40.130 Prohibition On Excessive  
 Noises.  
 7.40.140 Sound Measurement.  
 7.40.150 Definitions.  
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## ARTICLE I. GENERAL PROVISIONS

## 7.40.010 Short Title.

The ordinance codified in this chapter shall be known as the "nuisance ordinance," and may also be referred to herein as "this chapter." (Ord. 86-20 §4(Exhibit C(1)), 1986).

## 7.40.020 Definitions.

As used in this chapter:

A. "Responsible party" means the person responsible for curing or remedying a nuisance, which includes:

1. The owner of the property, or the owner's manager or agent or other person in control of the property on behalf of the owner;

2. The person occupying the property, including bailee, lessee, tenant or other person having possession;

3. The person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property. (Ord. 86-20 §4(Exhibit C(2)), 1986).

7.40.030 Nuisances Designated--Class 1  
Infraction.

A. The acts, omissions, conditions or objects specifically enumerated in this chapter are hereby declared to be a public nuisance.

B. In addition to the nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined by the Council to be offensive, injurious or detrimental to the public health, safety or welfare of the City is declared to be a nuisance.



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C. All nuisances shall constitute a Class 1 civil infraction and shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions. (Ord. 86-20 §4(Exhibit C(3)), 1986).

## ARTICLE II. PUBLIC HEALTH NUISANCES.

### 7.40.040 Nuisances Affecting The Public Health.

No person shall cause or permit a nuisance affecting the public health. The following are nuisances affecting the public health:

A. Privies. An open vault or privy constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the State Health Division regulations;

B. Debris. Accumulations of debris, rubbish, manure and other refuse that affect the health of surrounding persons;

C. Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests;

D. Water Pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes, or other substances placed in or near the water in a manner that will cause harmful material to pollute the water;

E. Odor. Any animal, substance or condition on the premises that is in such a state or condition as to cause an offensive odor detectable at a property line, or that is in an insanitary condition;

F. Surface Drainage. Drainage of liquid wastes from private premises;

G. Cesspools. Cesspools or septic tanks that are in an unsanitary condition or which cause an offensive odor;

H. Animals. Animals, including livestock or buildings for the purpose of maintaining livestock or animals, maintained in such places or in such a manner that they are offensive or annoying to the residents within the immediate vicinity, or maintaining the premises in such a manner as to be a breeding place or likely breeding place for rodents, flies and other pests;

I. Removal of Carcasses. An animal carcass permitted to remain on public property or to be exposed on public property for a period of time longer than is necessary to remove or dispose of the carcass.

J. Maintenance on Private Property of a Dangerous Building. A "dangerous building" is one or more of the following:

1. A structure that, for the want of proper repairs or by reason of age and dilapidated condition, by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connection, defective heating apparatus, or for any other cause or reason, is especially liable to fire, and that is so situated or occupied as to endanger any other building or property or human life;

2. A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or flammable substance of any kind, especially liable to cause fire or danger to the safety of the building, premises, or to human life;

3. A structure that is kept or maintained or is in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious disease or diseases;

4. A structure in such weak or

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weakened condition, or dilapidated or deteriorated condition as to endanger any person or property by reason of probability of partial or entire collapse. (Ord. 86-39 §1(Exhibit A), 1986; Ord. 86-20 §4(Exhibit C(4)), 1986).

## ARTICLE III. NUISANCES AFFECTING PUBLIC SAFETY.

### 7.40.050 Noxious Vegetation.

A. The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard, a fire hazard or a traffic hazard, and it is vegetation within the meaning of Subsection B of this section.

B. The term "noxious vegetation" includes:

1. Weeds more than ten inches high;
2. Grass more than ten inches high and not within the exception stated in Subsection A of this section;
3. Poison oak, poison ivy, or similar vegetation;
4. Dead trees, dead bushes, stumps and any other thing likely to cause fire;
5. Blackberry bushes that extend into a public thoroughfare or across a property line;
6. Vegetation that is a health hazard;
7. Vegetation that is a health hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

C. No owner or responsible party shall allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare

abutting on the property. The owner or responsible party shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly or, in the case of weeds or other noxious vegetation, from maturing or from going to seed. (Ord. 86-20 §4(Exhibit C(5)(1)), 1986).

### 7.40.060 Trees.

A. No owner or responsible party shall permit tree branches or bushes on the property to extend into a public street or public sidewalk in a manner which interferes with street or sidewalk traffic. It shall be the duty of an owner or responsible party to keep all tree branches or bushes on the premises which adjoin the public street or public sidewalk, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than ten feet above the street.

B. No owner or responsible party shall allow to stand any dead or decaying tree that is in danger of falling or otherwise constitutes a hazard to the public or to persons or property on or near the property. (Ord. 86-20 §4(Exhibit C(5)(2)(a) and (b)), 1986).

### 7.40.070 Streets And Sidewalks.

The owner or responsible party shall keep a public street and/or sidewalk abutting their property free from earth, rock and other debris and other objects that may obstruct or render the street or sidewalk unsafe for its intended use. (Ord. 86-20 §4(Exhibit C(5)(2)(c)), 1986).

### 7.40.080 Vehicles Not To Drop Material On Streets.

The owner or operator of any vehicle engaged in the transportation of excavation or construction materials shall be responsible for

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keeping the public streets and sidewalks free from such materials, including but not limited to, earth, rock and other debris that may obstruct or render the street or sidewalk unsafe for its intended use. (Ord. 86-20 §4(Exhibit C(5)(2)(d)), 1986).

### 7.40.090 Greenway Maintenance.

A. The owner or responsible party shall be responsible for the maintenance of the property, subject to an easement to the City or to the public for greenway purposes. Except as otherwise provided by this section and Sections 7.40.050 through 7.40.120, the standards for maintenance shall be as follows:

1. The land shall remain in its natural topographic condition. No private structures, culverts, excavations or fills shall be constructed within the easement area unless authorized by the City Engineer based on a finding of need in order to protect the property or the public health, safety or welfare.

2. No tree over five feet in height shall be removed unless authorized by the Planning Director based on a finding that the tree constitutes a nuisance or a hazard.

3. Grass shall be kept cut to a height not exceeding ten inches, except when some natural condition prevents cutting.

B. In situations where the approval authority establishes different standards or additional standards, the standards shall be in writing and shall be recorded. No person shall be found in violation of this section of the code unless the person has been given actual or constructive notice of the standards prior to the time the violation occurred. (Ord. 86-20 §4(Exhibit C(5)(3)), 1986).

### 7.40.100 Open Storage Of Junk.

No person or responsible party shall deposit, store, maintain or keep on any real property, except in a fully enclosed storage facility, building or garbage receptacle, any of the following:

A. An icebox or refrigerator, or similar container, which seals essentially airtight, without first removing the door;

B. Inoperable, partially dismantled automobiles, trucks, bus, trailer or other vehicle equipment or parts thereof in a state of disrepair, for more than ten days as to any one automobile, truck, bus, trailer or piece of vehicular equipment;

C. Used or dismantled household appliances, furniture, other discards or junk, for more than five days. (Ord. 86-20 §4(Exhibit C(5)(4)), 1986).

### 7.40.110 Attractive Nuisances.

A. No owner or responsible party shall permit on the property:

1. Unguarded machinery, equipment or other devices which are attractive, dangerous, and accessible to children;

2. Lumber, logs, building material or piling placed or stored in a manner so as to be attractive, dangerous, and accessible to children;

3. An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children; or

4. An exposed foundation or portion of foundation, any residue, debris or other building or structural remains, for more than thirty days after the destruction, demolition or removal of any building or portion of the building.

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B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. (Ord. 86-20 §4(Exhibit C(5)(5)), 1986).

### **7.40.120      Scattering Rubbish.**

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal, or vehicle traveling upon a public way. (Ord. 86-20 §4(Exhibit C(5)(6)), 1986).

## **ARTICLE IV. NUISANCES AFFECTING THE PUBLIC PEACE**

### **7.40.130      Prohibition On Excessive                       Noises.**

No person shall make, assist in making, permit, continue, or permit the continuance of, any noise within the City of Tigard in violation of this article. No person shall cause or permit any noise to emanate from property under that person's control in violation of this article. (Repealed and replaced by Ord. 01-13A, Ord. 96-06; Ord. 90-03 §1(part), 1990).

### **7.40.140      Sound Measurement.**

A. While sound measurements are not required for the enforcement of this article, should measurements be made, they shall be made with a sound level meter. The sound level meter:

1. Shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter;

2. Shall contain at least an A-weighted scale, and both fast and slow meter response capability.

B. If measurements are made, the person making those measurements shall have completed training in the use of the sound level meter, and shall use measurement procedures consistent with that training. (Repealed and replaced by Ord. 01-13A, Ord 90-03 §1(part), 1990).

### **7.40.150      Definitions.**

As used in this Article:

A. "Noise-sensitive unit" shall include any building or portion of a building containing a residence, place of overnight accommodation, church, day care center, hospital, school, or nursing care center. For the purpose of this definition, "residence" and "overnight accommodation" does not include living/sleeping quarters of a caretaker or watchperson on industrial or commercial property provided by the owner or operator of the industrial or commercial facility.

B. "Plainly audible" means any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehensible musical rhythms or vocal sounds.

C. "Unnecessarily loud" means any sound that interferes with normal spoken communication or that disturbs sleep.

D. "City Manager" means the City Manager or designee. (Repealed and replaced by Ord. 01-13A, Ord. 90-03 §51(part), 1990).

### **7.40.160      Noise Limits.**

It is unlawful for any person to produce, or permit to be produced, sounds which:

A. When measured at the boundary of or within a property on which a noise sensitive unit,

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not the source of the sound, is located, exceeds:

1. Forty dB at any time between nine p.m. and seven a.m. the following day; or

2. Fifty dB at any time between seven a.m. and nine p.m. the same day; or

B. Is plainly audible at any time between nine p.m. and seven a.m. the following day within a noise-sensitive unit which is not the source of sound; or

C. Is unnecessarily loud within a noise-sensitive unit which is not the source of the sound.

D. When measured at or within the boundary of or within a property on which no noise-sensitive unit is located, and the noise originates from outside the property, if the noise level exceeds:

1. Sixty dB at any time between nine p.m. and seven a.m. of the following day; or

2. Seventy-five dB at any other time.

E. If within a park, street or other public place, is unnecessarily loud at a distance of 100 feet. (Repealed and replaced by Ord. 01-13A, Ord. 90-03 §1(part), 1990).

### **7.40.170 Prohibited Noises.**

A. The use of exhaust brakes (jake brakes), except in an emergency, is prohibited at all times within the City, regardless of noise level.

B. Except as provided in Section 7.40.180, the following acts are violations of this chapter if they exceed the noise limits specified in Section 7.40.160:

1. The sounding of any horn or signal device or any other device on any automobile,

motorcycle, truck, bus or other vehicle while in motion, except as a danger signal.

2. The operation of sound-producing devices such as, but not limited to, musical instruments, loudspeakers, amplifying devices, public address systems, radios, tape recorders and/or tape players, compact disc players, phonographs, television sets and stereo systems, including those installed in or on vehicles.

3. The operation of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle, except during sanctioned parades.

4. The use of any automobile, motorcycle or other vehicle so out of repair or in such a manner as to create loud or unnecessary sounds, grating, grinding, rattling or other noise.

5. The keeping of any animal or bird that creates noise in excess of the levels specified in Section 7.40.160.

6. The operation of air conditioning or heating units, heat pumps, refrigeration units, (including those mounted on vehicles) and swimming pool or hot tub pumps.

7. The erection (including excavation), demolition, alteration or repair of any building, except as allowed under Sections 7.40.180.E and 7.40.180.F.

8. The use or creation of amplified sound in any outdoor facility.

9. Any other action that creates or allows sound in excess of the level allowed by Section 7.40.160. (Repealed and replaced by Ord. 01-13A, Ord. 96-06; Ord. 90-03 §1(part), 1990).

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## 7.40.180 Exceptions.

The following shall not be considered violations of this article, even if the sound limit specified in Section 7.40.160 is exceeded:

A. Non-amplified sounds created by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, such as stadiums, parks, schools, and athletic fields, during normal hours for such events.

B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, regardless of whether such work is performed by a public or private agency, or upon public or private property.

C. Sounds caused by bona fide use of emergency warning devices and alarm systems.

D. Sounds regulated by federal law, including, but not limited to, sounds caused by railroads or aircraft.

E. Sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities and only between the hours of seven a.m. and nine p.m. Monday through Friday and eight a.m. and nine p.m. on Saturday and Sunday.

F. Sounds caused by industrial, agricultural or construction activities during the hours of seven a.m. to nine p.m. Monday through Friday and eight a.m. to nine p.m. on Saturday and Sunday.

G. Sounds caused by regular vehicular traffic upon premises open to the public in compliance with state law. Regular vehicle traffic does not include a single vehicle that creates noise in excess of the standard set forth in Section 7.40.160.

H. Sounds caused by air-, electrical- or gas-driven domestic tools, including, but not limited to, lawn mowers, lawn edgers, radial arm, circular and table saws, drills, and/or other similar lawn or construction tools, but not including tools used for vehicle repair, during the hours of seven a.m. to nine p.m. Monday through Friday and eight a.m. to nine p.m. on Saturday and Sunday.

I. Sounds caused by chainsaws, when used for pruning, trimming or cutting of live trees between the hours of seven a.m. and nine p.m. Monday through Friday and eight a.m. and nine p.m. on Saturday and Sunday, and not exceeding two hours in any twenty-four hour period.

J. Sounds created by community events, such as parades, public fireworks displays, street fairs, and festivals that the City Manager or designee has determined in writing to be community events for the purposes of this section. The City Manager's decision shall be based on the anticipated number of participants or spectators, the location of the event and other factors the City Manager determines to be appropriate under the circumstances.

K. Sounds made by legal fireworks on the third of July, Fourth of July, and the Friday and Saturday during the weekend closest to the Fourth of July of each year, between the hours of seven a.m. and eleven p.m.

L. Sounds made between midnight and 12:30 a.m. on January 1 of each year.

M. Sounds originating from construction projects for public facilities within rights of way pursuant to a noise mitigation plan approved by the City Manager. The noise mitigation plan must:

1. Map the project noise impacts and explain how the impacts will be mitigated;

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2. Provide special consideration and mitigation efforts for noise sensitive units;

3. Outline public notification plans;

4. Provide a 24-hour telephone contact number for information and complaints about a project.

The City Manager may approve a noise mitigation plan only if the City Manager determines that the noise mitigation plan will prevent unreasonable noise impacts. (Repealed and replaced by Ord. 01-13A, Ord 90-03 §1(part), 1990).

## **7.40.190 Maximum Limit For Certain Activities.**

Notwithstanding Section 7.40.180, the creation of noise by any activity subject to the exceptions listed in Sections 7.40.180.E, 7.40.180.F, 7.40.180.H, or 7.40.180.I, in excess of 85 dB measured on property on which a noise sensitive use is located, for more than 5 minutes in any calendar day shall be a violation. (Repealed and replaced by Ord. 01-13A, Ord. 99-29; Ord. 96-06; Ord. 90-03 §1(part), 1990).

## **7.40.200 Evidence.**

In any civil infraction action based on a violation of the limits set forth in Sections 7.40.160.B, 7.40.160.C or 7.40.160.E, the evidence of at least two persons from different households, shall be required to establish a violation. Any Police or Code Enforcement Officer or other City employee who witnessed the violation shall be counted as a witness for purposes of the two witness requirement. The City may ask an alleged violator to enter into a voluntary compliance agreement based on a single complaint or single witness. (Repealed and replaced by Ord. 01-13A, Ord. 99-29; Ord. 96-06; Ord. 90-03 §1(part), 1990).

## **ARTICLE VI. VIOLATION--PENALTY**

### **7.40.210 Penalty For Chapter Violations.**

A. A violation of this chapter shall constitute a Class 1 civil infraction, which shall be processed according to the procedures established in the civil infractions ordinance, set out at Chapter 1.16 of this code.

B. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

C. A finding of a violation of this chapter shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

D. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter. (Ord. 99-01; Ord. 90-03 §1(part), 1990).■

## Construction Noise Comparisons by Jurisdiction

Jurisdiction	Mon-Fri		Saturday		Sunday		
	Start Time	End Time	Start Time	End Time	Start Time	End Time	
Beaverton	7:00 AM	7:00 PM	7:00 AM	7:00 PM	7:00 AM	7:00 PM	**
Bend	7:00 AM	10:00 PM	7:00 AM	10:00 PM	7:00 AM	10:00 PM	**
Cornelius	7:00 AM	10:00 PM	7:00 AM	10:00 PM	Prohibited	Prohibited	
Eugene	7:00 AM	7:00 PM	7:00 AM	7:00 PM	7:00 AM	7:00 PM	**
Gresham	7:00 AM	10:00 PM	7:00 AM	10:00 PM	7:00 AM	10:00 PM	**
Happy Valley	7:00 AM	6:00 PM	9:00 AM	6:00 PM	9:00 AM	6:00 PM	
Hillsboro	6:00 AM	9:00 PM	6:00 AM	9:00 PM	6:00 AM	9:00 PM	**
Lake Oswego	7:00 AM	6:00 PM	8:00 AM	6:00 PM	9:00 AM	6:00 PM	
Milwaukie	7:00 AM	7:00 PM	8:00 AM	5:00 PM	8:00 AM	5:00 PM	
Newberg	7:00 AM	6:00 PM	7:00 AM	6:00 PM	7:00 AM	6:00 PM	**
Portland	7:00 AM	6:00 PM	7:00 AM	6:00 PM	Prohibited	Prohibited	
Salem	7:00 AM	10:00 PM	7:00 AM	10:00 PM	7:00 AM	10:00 PM	**
Sherwood	7:00 AM	10:00 PM	8:00 AM	7:00 PM	8:00 AM	7:00 PM	
Redmond	7:00 AM	10:00 PM	7:00 AM	10:00 PM	7:00 AM	10:00 PM	
Tigard	7:00 AM	9:00 PM	8:00 AM	9:00 PM	8:00 AM	9:00 PM	
Tualatin	7:00 AM	6:00 PM	7:00 AM	6:00 PM	7:00 AM	6:00 PM	**
Washington County	7:00 AM	7:00 PM	7:00 AM	7:00 PM	Prohibited	Prohibited	
West Linn	7:00 AM	7:00 PM	9:00 AM	5:00 PM	Prohibited	Prohibited	
Wilsonville *PST	7:00 AM	8:00 PM	9:00 AM	6:00 PM	Prohibited	Prohibited	
Wilsonville *PDT	7:00 AM	9:00 PM	9:00 AM	7:00 PM	Prohibited	Prohibited	
Woodburn	7:00 AM	9:00 PM	7:00 AM	9:00 PM	7:00 AM	9:00 PM	**

\* Separate hours for Standard and Daylight times

\*\* Designates no change in regulation for weekend hours